

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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| In re: |) | |
| |) | [AWG] |
| Michelle Pieplow, |) | Docket No. 12-0098 |
| |) | |
| Petitioner |) | Decision and Order |

Appearances:

Michelle Pieplow, the Petitioner, representing herself (appearing *pro se*); and

Michelle Tanner, Appeals Coordinator, United States Department of Agriculture, Rural Development, Centralized Servicing Center, St. Louis, Missouri, for the Respondent (USDA Rural Development).

1. The hearing by telephone was held on February 1 and 7, 2012. Michelle Pieplow, the Petitioner, also known as Michelle R. Pieplow (“Petitioner Pieplow”), participated, representing herself (appears *pro se*).

2. Rural Development, an agency of the United States Department of Agriculture (USDA), is the Respondent (“USDA Rural Development”) and is represented by Michelle Tanner.

Summary of the Facts Presented

3. USDA Rural Development’s Exhibits RX 1 through RX 6, plus Narrative, Witness & Exhibit List, were filed on January 4, 2012, and are admitted into evidence, together with the testimony of Michelle Tanner.

4. Petitioner Pieplow’s documents filed on February 7, 2012, are admitted into evidence, together with the testimony of Petitioner Pieplow. The documents filed on February 7 include a “Consumer Debtor Financial Statement” signed February 2, 2012; only 3 pages of the 4-page form are filed. Petitioner Pieplow had completed a “Consumer Debtor Financial Statement” signed July 18, 2011, that was submitted with her Hearing Request, which is also admitted into evidence, together with her Hearing Request and all other accompanying documents (filed December 7, 2011).

5. Petitioner Pieplow owes to USDA Rural Development **\$17,655.74** (as of December 29, 2011, *see esp.* RX 6, pp. 1, 5, and 6), in repayment of a United States Department of Agriculture Farmers Home Administration loan made in 1994, for a home in Tennessee. The balance is now unsecured (“the debt”). [The loan balance has changed, because garnishment is ongoing; the balance has been reduced.]

6. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$17,655.74**, would increase the balance by \$5,296.72, to \$22,952.46. *See esp.* RX 6, p. 1.

7. The amount Petitioner Pieplow borrowed in 1994 was \$55,750.00. RX 1. House payments were made through October 9, 2001 (the next payment due date was November 2001). By the time the home was sold on May 5, 2006, the debt had grown to \$72,074.96:

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|--------------|---|
| \$ 51,375.56 | Principal Balance |
| \$ 15,269.71 | Interest Balance prior to sale (roughly 4-1/2 years of unpaid interest) |
| \$ 4,816.85 | Fee Balance prior to sale (includes unpaid real estate taxes, unpaid insurance premiums, foreclosure costs) |
| \$ 597.84 | Interest on Fee Balance |
| \$ 15.00 | NSF fee |
| <hr/> | |
| \$ 72,074.96 | Total Amount Due prior to sale |
| <hr/> | |

RX 6, p. 6 and USDA Rural Development Narrative.

Proceeds from sale of the home reduced the Amount Due by \$47,940.00. Interest stopped accruing when sale proceeds were applied on the loan, in 2006. The Amount Due was increased by \$450.00 for an administrative cost. Collections from Treasury from August 4, 2006 through December 22, 2011 applied to the debt reduced the debt from \$24,584.96 to **\$17,655.74** unpaid now (excluding the potential remaining collection fees). *See* RX 6, esp. pp. 2-5, and USDA Rural Development Narrative.

8. Petitioner Pieplow has made excellent progress repaying the loan, but the garnishments have caused her financial hardship. Petitioner Pieplow was on active duty in the military until 2005, and she has a 40% service-connected disability that stems particularly from her cervical spine injury. Petitioner Pieplow works as an HR Analyst for the State of Tennessee, making about \$12.00 per hour. Her disposable pay (within the meaning of 31 C.F.R. § 285.11) is about \$1,700.00 per month. [Disposable income is gross pay minus income tax, Social Security, Medicare, and health insurance withholding; and in certain situations minus other employee benefits contributions that are required to be

withheld.] Petitioner Pieplow is paid twice a month, and she is a single mother with an 18-year old son, who is in college, to support. Petitioner Pieplow's Consumer Debtor Financial Statements shows that her living expenses are reasonable and may exceed her disposable pay. In addition to her living expenses, Petitioner Pieplow is paying delinquent taxes, more credit card debt than she can make minimum payments on, a car payment, and a TitleMax payment. Even with her VA disability payment, garnishment at 15% of Petitioner Pieplow's disposable pay has clearly caused Petitioner Pieplow financial hardship. Petitioner Pieplow's biggest financial stressor was that she was laid off in June 2010 and out of work for half a year, until December 2010.

9. To prevent further hardship, potential garnishment to repay "the debt" (*see* paragraph 5) must be limited to **5%** of Petitioner Pieplow's disposable pay through May 2015; then **up to 10%** of Petitioner Pieplow's disposable pay beginning June 2015 through May 2018; then **up to 15%** of Petitioner Pieplow's disposable pay thereafter. 31 C.F.R. § 285.11.

10. Petitioner Pieplow is responsible and willing and able to negotiate the disposition of the debt with Treasury's collection agency.

Discussion

11. Garnishment is authorized. *See* paragraphs 8, 9 and 10. I encourage **Petitioner Pieplow and Treasury's collection agency to negotiate** the repayment of the debt. Petitioner Pieplow, this will require **you** to telephone the collection agency after you receive this Decision. The toll-free number for you to call is **1-888-826-3127**. Petitioner Pieplow, you may choose to offer to the collection agency to compromise the debt for an amount you are able to pay, to settle the claim for less. Petitioner Pieplow, you may want to have someone else with you on the line if you call.

Findings, Analysis and Conclusions

12. The Secretary of Agriculture has jurisdiction over the parties, Petitioner Pieplow and USDA Rural Development; and over the subject matter, which is administrative wage garnishment.

13. Petitioner Pieplow owes the debt described in paragraphs 5, 6 and 7.

14. **Garnishment is authorized**, as follows: through May 2015, garnishment **up to 5%** of Petitioner Pieplow's disposable pay; beginning June 2015 through May 2018, garnishment **up to 10%** of Petitioner Pieplow's disposable pay; and thereafter, garnishment **up to 15%** of Petitioner Pieplow's disposable pay. 31 C.F.R. § 285.11.

15. I am **NOT** ordering any amounts already collected prior to implementation of this Decision, whether through *offset* or garnishment of Petitioner Pieplow's pay, to be returned to Petitioner Pieplow.

16. Repayment of the debt may occur through *offset* of Petitioner Pieplow's **income tax refunds** or other **Federal monies** payable to the order of Ms. Pieplow.

Order

17. Until the debt is repaid, Petitioner Pieplow shall give notice to USDA Rural Development or those collecting on its behalf, of any changes in her mailing address; delivery address for commercial carriers such as FedEx or UPS; FAX number(s); phone number(s); or e-mail address(es).

18. USDA Rural Development, and those collecting on its behalf, are authorized to proceed with garnishment **up to 5%** of Petitioner Pieplow's disposable pay through May 2015. Beginning June 2015 through May 2018, garnishment **up to 10%** of Petitioner Pieplow's disposable pay is authorized; and garnishment **up to 15%** of Petitioner Pieplow's disposable pay thereafter. 31 C.F.R. § 285.11.

Copies of this Decision shall be served by the Hearing Clerk upon each of the parties.

Done at Washington, D.C.
this 5th day of April 2012

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

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